

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Assess and Revise the New Regulatory Framework for Pacific Bell and Verizon California Incorporated.

Rulemaking 01-09-001
(Filed September 6, 2001)

Order Instituting Investigation on the Commission's Own Motion to Assess and Revise the New Regulatory Framework for Pacific Bell and Verizon California Incorporated.

Investigation 01-09-002
September 6, 2001

**ASSIGNED COMMISSIONER'S RULING DETERMINING
THE CATEGORY, SCOPE, SCHEDULE, NEED FOR HEARING,
AND THE PRINCIPAL HEARING OFFICER FOR THE PROCEEDING**

I. Summary

This ruling determines the category, scope, schedule, need for hearing, and the principal hearing officer for this proceeding in accordance with Article 2.5 of the Commission's Rules of Practice and Procedure (Rules).¹ Additional rulings may be issued that revise the scope and schedule for this proceeding.

¹ Pursuant to Article 2.5 of the Rules, only this ruling's determination of category may be appealed to the Commission.

II. Background

On September 6, 2001, the Commission issued Order Instituting Rulemaking 01-09-001 and Order Instituting Investigation 01-09-002 (collectively, the “Order”). The purpose of the proceeding established by the Order is to assess and revise the New Regulatory Framework (NRF) for Pacific Bell Telephone Company (Pacific) and Verizon California Incorporated (Verizon). Appendix A of the Order described the scope of the proceeding, and Appendix B provided a preliminary schedule for the proceeding.

The Order divided the proceeding into three Phases. Phase 1 will address factual issues related to the audit of Verizon that was conducted by the Office of Ratepayer Advocates (ORA). Phase 2 will address factual issues related to (1) the audit of Pacific that is currently being conducted by the Telecommunications Division (TD), and (2) the quality of service provided by Pacific and Verizon. Phase 3 will review and revise, as necessary, those elements of NRF identified in Appendix A of the Order. The Order stated that the exact scope of each Phase will be determined in one or more rulings issued by the assigned Commissioner.

The Order preliminarily determined that this is a “ratesetting” proceeding, and that evidentiary hearings are needed. The Order stated that the time, place, and scope of the evidentiary hearings will be set in one or more rulings issued by the assigned Commissioner or the assigned Administrative Law Judge (ALJ). The Order also stated that because of the number and complexity of the issues in this proceeding, the assigned Commissioner and the assigned ALJ may revise the schedule as the proceeding progresses.

The Order directed parties to submit opening comments regarding Phase 1 issues no later than 30 days after the effective date of the Order, and reply comments no later than 45 days after the effective date of the Order. Parties were

directed to include in their opening comments any objections they had regarding (1) the categorization of this proceeding as “ratesetting,” (2) the preliminary determination that evidentiary hearings are needed, and (3) the scope and schedule for the proceeding. Any parties that believed evidentiary hearings were necessary for Phase 1 issues were directed to file motions requesting hearings no later than 50 days after the effective date of the Order.

Opening comments regarding the previously described matters were filed by ORA, Pacific, The Utility Reform Network (TURN), and Verizon. Reply comments were filed by these same parties and by WorldCom, Inc. ORA, TURN, and Verizon filed motions requesting evidentiary hearings regarding Phase 1 issues. TURN and Verizon filed replies to the motions.

III. Scope of the Proceeding

This ruling refines and clarifies the scope of the proceeding in response to the parties’ comments and motions. Any issue not identified in the Order or this ruling is outside the scope of the proceeding. As authorized by the Order, the assigned Commissioner may issue additional rulings that amend and clarify the scope of this proceeding.

A. Scope of Phase 1

As described in the Order, Phase 1 will focus on the resolution of factual issues related to ORA’s audit of Verizon. The Commission will determine in Phase 3 whether and how NRF should be revised based, in part, on the record developed in Phase 1. Accordingly, parties will have an opportunity in Phase 1 to identify findings of fact regarding the Verizon audit that are relevant to Phase 3 issues. Parties may also recommend remedial measures that should be implemented at the conclusion of Phase 1 in response to the Verizon audit. However, parties may not recommend revisions to NRF in Phase 1 unless the

revisions are remedial actions that should be implemented expeditiously.

Additionally, parties may not litigate issues of fact regarding the Verizon audit in Phase 3. All litigation of factual issues regarding the audit must occur in Phase 1.

ORA states that Phase 1 should address issues associated with Resolution T-16572. In that resolution, the Commission “accepted” Verizon’s rate of return (ROR) for the year 2000, subject to any corrections or adjustments that may result from this proceeding. Parties may present testimony in Phase 1 on issues associated with Resolution T-16572 that have a clear and direct connection to ORA’s audit report. For example, parties may offer testimony on how the findings in ORA’s audit report affect Verizon’s ROR for the year 2000. Conversely, any issue associated with Resolution T-16572 that does not have a clear and direct connection to ORA’s audit report is outside the scope of Phase 1.

ORA also states that it should be allowed to propose ratemaking adjustments in Phase 1 that are based on its audit. This matter appears relevant to Phase 1, but parties will have the burden of demonstrating that any proposed ratemaking adjustment has a clear and direct connection to ORA’s audit report, is legal (e.g., does not constitute an impermissible form of retroactive ratemaking), and is consistent with NRF.²

Finally, ORA states that Phase 1 should include issues associated with the transfer of Verizon’s Yellow Page revenues to an affiliate in the year 2000. According to ORA, the diversion of Yellow Page revenues has caused a material understatement of Verizon’s earnings for the year 2000, which could hinder the

² Parties may likewise propose ratemaking adjustments in Phase 2 that stem from TD’s audit of Pacific. Parties will have the burden of demonstrating that any such proposal has a clear and direct connection to TD’s audit report, is legal, and is consistent with NRF.

Commission's ability to render an informed decision on many Phase 3 issues.³ ORA also recommends that the Commission consider penalizing Verizon for its transfer of Yellow Pages revenues. ORA did not demonstrate a connection between its audit of Verizon and the transfer of Yellow Page revenues. Consequently, issues associated with the transfer of Yellow Page revenues are outside the scope of Phase 1. ORA may address in Phase 3 issues regarding the treatment of Yellow Page revenues. The issue of penalties may be raised in a different proceeding, including a complaint if ORA chooses to file one.⁴

B. Scope of Phase 2

As described in the Order, Phase 2 will address factual issues associated with (1) TD's audit of Pacific, and (2) how service quality has fared under NRF. Each of these topics is addressed in more detail below. In Phase 3, the Commission will determine whether and how NRF should be revised based, in part, on the record developed in Phase 2.

1. Pacific Audit

Phase 2 will resolve factual issues associated with TD's audit of Pacific. Parties will have an opportunity in Phase 2 to identify findings of fact regarding the Pacific audit that are relevant to Phase 3 issues. Parties may also recommend remedial measures that should be implemented at the conclusion of Phase 2 in response to the Pacific audit. However, parties may not recommend revisions to NRF in Phase 2 unless the revisions are remedial actions that should be implemented expeditiously. Additionally, parties may not litigate issues of fact

³ Verizon admits that the transfer of Yellow Page revenues decreased its ROR for the year 2000 by approximately 250 basis points.

⁴ ORA has standing to initiate complaints against utilities. (Decision (D.) 01-08-067)

regarding the Pacific audit in Phase 3. All litigation of factual issues pertaining to the audit must occur in Phase 2.

Pacific states that Phase 2 should address the recovery of Pacific's audit-related costs. This matter is within the scope of Phase 2, since it has a direct connection to TD's audit of Pacific. Accordingly, Pacific may offer testimony in Phase 2 regarding the amount of its audit-related costs as well as a proposal for recovering the costs in rates (e.g., recovery through the Limited Exogenous (LE) factor mechanism established by D.98-10-026). In addition to satisfying any other applicable requirements (e.g., for LE factor recovery), Pacific should show in any such testimony that its audit-related costs were reasonably incurred, would not have been incurred absent the audit, and are not recovered in rates.⁵

ORA states that Phase 2 should include issues associated with Resolution T-16571. In that resolution, the Commission "accepted" Pacific's ROR for the year 2000, subject to any corrections or adjustments that may result from this proceeding. Parties may offer testimony in Phase 2 on issues associated with Resolution T-16571 that have a clear and direct connection to TD's audit report. For example, parties may present testimony on how the findings in TD's audit affect Pacific's ROR for the year 2000. Any issue associated with Resolution T-16571 that does not have a clear and direct connection to TD's audit report is outside the scope of Phase 2.

2. Service Quality

In Phase 2, the Commission will assess how service quality has fared under NRF. This assessment will focus on the quality of service provided to end

⁵ Verizon may present testimony in Phase 1 regarding the recovery of its audit-related costs.

users by Pacific and Verizon.⁶ Issues that are beyond the scope of this proceeding include the following: (1) the quality of service provided by Pacific and Verizon to other carriers; (2) requests for relief that are better addressed in complaint or enforcement proceedings; and (3) matters pertaining to universal service. Parties will have an opportunity in Phase 2 to identify findings of fact regarding service quality that are relevant to Phase 3 issues. However, parties may not recommend revisions to NRF in Phase 2 that are related to service quality. Additionally, parties may not litigate issues of fact regarding service quality in Phase 3. All such litigation must occur in Phase 2.

C. Scope of Phase 3

In Phase 3, the Commission will consider whether to revise the specific elements of NRF that are identified in Appendix A of the Order. Parties will have an opportunity to recommend revisions to the elements of NRF identified in Appendix A based on the record developed in Phases 1 and 2.

ORA states that Phase 3 should address (1) ways to increase Commission oversight of utilities' pricing of Category III services, and (2) utilities' use of applications to raise prices for Category I and II services. TURN states that Phase 3 should address what criteria should be used to determine (1) whether a newly minted Category III service is fully competitive, and (2) whether a newly minted service should be treated below-the-line. These topics are within the scope of Phase 3 where the Commission will consider what criteria and

⁶ To help establish a record on how service quality has fared under NRF, the Order took the following actions: (1) provided summary information on the number of informal complaints filed at the Commission pertaining to Pacific and Verizon; (2) directed Pacific and Verizon to file compliance reports that contain specified information on service quality; and (3)

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procedures should be used to revise prices for Category I, II, and III services. Accordingly, parties may present recommendations on these topics in Phase 3. Parties are reminded that issues that are resolved in Rulemaking 98-07-038 are outside the scope of this proceeding.

Pacific and Verizon argue that it is improper for Phase 3 to address whether the sharing mechanism and the price-cap index should be reinstated. They note that the Commission in D.98-10-026 declared its expectation that sharing and the price-cap index would be eliminated in the next NRF review, not reinstated. The language cited by Pacific and Verizon from D.98-10-026 was not necessary to the resolution of the issues presented in that proceeding and is therefore dicta. Such dicta does not preclude the Commission's consideration of whether to reinstate sharing and the price-cap index. It would be imprudent, if not reckless, to rule out any option before a record has been developed in this proceeding regarding future modifications to NRF.⁷

Pacific and Verizon similarly argue that it is improper for Phase 3 to address what criteria should be used to determine which course of action to take with respect to sharing and the price-cap index. They note that the Commission in D.98-10-026 declared its expectation that sharing and the price-cap index would be eliminated unless (1) problems emerge that would have been cured by sharing or the price-cap index, or (2) there are other clear and convincing reasons not to eliminate sharing or the price-cap index. Pacific and Verizon contend that

authorized parties to submit customer surveys and other information that is relevant to assessing service quality.

⁷ Even if the language cited by Pacific and Verizon were not dicta, the Commission has authority under Pub. Util. Code § 1708 to modify D.98-10-026 after providing notice and an

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the criteria enunciated in D.98-10-026 must be followed in this proceeding. Again, Pacific and Verizon are relying on dicta from D.98-12-026 that was not necessary to the resolution of the issues presented in that docket. Here, as in each previous NRF review, the Commission is examining whether NRF can be improved. In making this assessment, the Commission is free to apply whatever criteria it finds, based on the record, to be the most appropriate.⁸

Pacific and Verizon next argue that the Order improperly adds a new criterion for modification of NRF – the level of competition – that was rejected in D.98-10-026 and D.99-02-087. In those decisions, the Commission determined that the modifications to NRF adopted in D.98-10-026 did not require specific evidence on the level of competition. However, there is nothing in those decisions that indicates it would be improper for the Commission to consider the level of competition in a future proceeding. This ruling clarifies that parties are not required to support their recommendations for revising NRF with specific evidence regarding the level of competition, but parties are at risk that the Commission might not adopt their recommendations without such evidence.

Pacific and Verizon contend that the Order improperly places the burden on those parties recommending the elimination of an element of NRF to demonstrate that the element is unnecessary. They state that no similar burden is placed on parties recommending the reinstatement of a NRF element to demonstrate that the element is necessary. The intent of the Order was to place the same burden on each party to demonstrate that its recommendations are

opportunity to be heard. The required notice was provided in the Order, and parties will have an opportunity to be heard in this proceeding.

⁸ See footnote 7.

reasonable. Accordingly, this ruling clarifies that any party that recommends the elimination of a NRF element must demonstrate that the element is unnecessary, and any party that recommends the reinstatement of a NRF element must demonstrate why it is necessary to do so.

Pacific states that Phase 3 should address the utilities' recovery of costs associated with any changes to NRF related to service quality that may result from Phase 3. This topic is within the scope of Phase 3. Accordingly, parties may present recommendations in Phase 3 regarding whether and how utilities should recover costs associated with changes to NRF related to service quality. However, this proceeding will not address the recovery of a specific amount of costs, since the amount is unlikely to be known with precision until after the changes are implemented. If necessary, the amount of any cost recovery can be addressed in a later proceeding.

IV. Evidentiary Hearings

A. Need for Hearings

No party objected to the preliminary determination in the Order that there is a need for evidentiary hearings in this proceeding. This ruling affirms that there is a need for evidentiary hearings in Phases 1 and 2. The need for evidentiary hearings in Phase 3 will be determined after parties have had an opportunity to submit motions to request hearings in Phase 3.

B. Hearing Schedule and Procedures

The schedule for evidentiary hearings is set forth in Appendix A of this ruling. All evidentiary hearing will take place in San Francisco. Any party that desires an expedited transcript of the hearings for a particular Phase should notify the Chief Hearing Reporter by telephone at 1-415-703-4881, at least three

business days prior to the start of hearings for the Phase. Exhibits shall be prepared in accordance with Rules 70 and 71 and Appendix B attached hereto.

The parties that plan to participate in the hearings shall meet and confer prior to start of evidentiary hearings for each Phase for the purpose of preparing a Joint Hearing Schedule & Exhibit List that contains the following information:

1. Proposed witness schedule.
2. Cross-examination time estimates.
3. Witness constraints, if any.
4. Title, subject matter, and number of each exhibit, the identify of the offering party, and the sponsoring witness.

The joint exhibit shall be filed at least five business days prior to the start of evidentiary hearings for each Phase. The hearings will be conducted in accordance with the Joint Hearing Schedule & Exhibit List submitted for each Phase unless the assigned Commissioner or assigned ALJ specify otherwise.

Any party that plans to participate in the hearings without presenting written testimony (e.g., cross examination of witnesses) should file and serve notice of such participation prior to the start of hearings. There is no need for parties to attend the hearings in order to be placed on the service list for this proceeding. The Order provides instructions on how to be placed on the service list without attending a hearing.

Anyone who needs assistance on how to participate in the hearings should access the resources available on the Commission's web site (www.cpuc.ca.gov) or contact the Commission's Public Advisor's Office. The northern California Office can be reached at 415-703-2074 or public.advisor@cpuc.ca.gov. The southern California Office can be reached at 213-576-7055 or public.advisor.la@cpuc.ca.gov.

C. Commissioner Presence at Hearings

Pursuant to Rule 8(c), parties may request the presence of the assigned Commissioner at a specific hearing. Any such request must be filed and served at least 10 days prior to start of evidentiary hearings for each Phase, and must include the information specified in Rule 8(c).

D. Procedures Applicable Only to Phase 1 Hearings

The written testimony submitted by the parties in Phase 1 shall supercede their opening and reply comments regarding Phase 1 issues.

ORA, TURN, and Verizon state their intent to submit a joint exhibit that contains a numbered list of the recommendations in ORA's audit report and a reference to the pages in the audit report that discuss each recommendation. To enhance the usefulness of the joint exhibit, the parties should also provide the following information for each recommendation: (1) a brief description of the recommendation and the underlying issue addressed by the recommendation, and (2) whether the recommendation is contested or resolved. For each resolved recommendation, the joint exhibit should state (1) what action the Commission should take, if any, to implement the recommendation, and (2) why the recommendation is reasonable in light of the whole record, consistent with the law, and in the public interest. The parties should submit the joint exhibit at the same time as their opening testimony.

E. Principal Hearing Officer

Administrative Law Judge Kenney is designated as the principal hearing officer pursuant to Pub. Util. Code § 1701.3(a) and Rule 6(c)(2).

F. Public Participation Hearings

This ruling makes no determination regarding TURN's request to hold public participation hearings (PPHs) on service quality in Phase 2. The need for PPHs will be determined at a later time.

V. Schedule

All parties filing comments and/or motions agreed that there is a need to extend the schedule for this proceeding beyond (1) the schedule proposed in the Order, and (2) the 18-month period for concluding this proceeding that is contemplated by Rule 6(e). Appendix A of this ruling contains a revised schedule that reflects the parties' comments and motions. Because of the number and complexity of the issues in this proceeding, it may be necessary to further revise the schedule as the proceeding progresses.

This ruling modifies the schedule for Phase 2 to provide Pacific with additional time to respond to TD's audit report. The adopted schedule requires Pacific to file its response on March 29, 2002, which gives Pacific 57 days to respond to the audit report,⁹ assuming the report is filed on January 31, 2002. However, this ruling does not grant Pacific's request for 75 days to respond to TD's audit report, since doing so would require a significant extension of the schedule for the entire proceeding. Such an extension is unnecessary in light of the fact that Pacific will have additional opportunities to respond to TD's audit report via written and oral testimony.

Parties should note that the schedule for Phase 2 does not provide for opening and reply comments. Instead, all issues in Phase 2 will be addressed through written and oral testimony.

VI. Category

No party objected to the preliminary determination in the Order that this proceeding should be categorized as ratesetting.¹⁰ This ruling affirms that the category for this proceeding is ratesetting.

VII. Communications with Decision Makers

The rules, procedures, and reporting requirements regarding *ex parte* communications set forth in Pub. Util. Code § 1701.3(c), Rule 7(c), and Rule 7.1 are applicable to this proceeding.

Communications with the assigned ALJ shall be conducted through paper mail or electronic mail (tim@cpuc.ca.gov) and not by telephone. Prior to submitting a request regarding any matter to the assigned ALJ, the requesting party shall first communicate with all other parties and obtain their position on the request. The written or electronic communication to the ALJ shall contain the requesting party's representation regarding the position of the other parties on the request and shall be sent to the other parties on the service list.

VIII. Electronic Service

Parties shall provide an electronic copy of their pleadings to the assigned ALJ via e-mail (tim@cpuc.ca.gov) in Microsoft Word format.

Any party that provides an e-mail address in its notice of participation shall serve and receive all pleadings by e-mail in Microsoft Word format. There is no need to serve hard copies of pleadings on parties that have provided an e-mail address. However, parties in the Appearance and State Service categories

⁹ The Order provided Pacific with 15 days to respond to TD's audit report.

¹⁰ Rule 5(c) defines a "ratesetting" proceeding as one in which the Commission sets or investigates rates or establishes a mechanism that sets the rates for one or more utilities.

of the service list that have not provided an e-mail address must be served with a hard copy. In addition all documents filed at the Commission must be tendered in paper form as described in Rule 2 et seq.

IX. Utility Cooperation with Commission Staff

ORA states that Pacific has been slow and uncooperative in responding to data requests, and that the Commission should order Pacific to provide timely responses to ORA's data requests. TD reports that Pacific has at times been slow and uncooperative in providing information needed by TD in its audit of Pacific.

Pacific is reminded that the Order instructed Pacific to provide full and timely responses to staff requests for information regarding service quality.

Pacific is reminded that TD and ORA have broad statutory authority to obtain information from Pacific.¹¹ It is troubling that Pacific may not be fulfilling its statutory obligation to provide information sought by Commission staff.¹² The Commission noted at the inception of NRF that utility cooperation with staff was indispensable to the success of NRF:

We direct the utilities to fully cooperate in providing all necessary information. This order provides Pacific and [Verizon] with an unprecedented opportunity to conduct their regulated business in a more flexible manner. This increased freedom does not mean that the Commission will countenance a more restrictive information access policy, however. Indeed, we view the success of the new regulatory framework as inextricably linked to the quality of the Commission's access to utility information. To make this new framework more credible, we will insist on more cooperation, not less, in the sharing of

¹¹ D.01-08-062.

¹² In D.89-10-031, the Commission ordered Pacific to cooperate fully with staff in providing information necessary for NRF monitoring, audits, and investigations. (33 CPUC 2d 43, 234.)

information. We will not tolerate actions which obstruct the audits and investigations of the Commission staff, whichever division is involved. (D.89-10-031, 33 CPUC 2d 43, 196.)

Utility cooperation with Commission staff is an important factor in determining whether, and to what extent, NRF should be revised. Accordingly, parties may present testimony in Phase 2 regarding Pacific's cooperation with Commission staff on matters related to TD's audit of Pacific and service quality.¹³ In Phase 3, the Commission may make revisions to NRF based on the record developed regarding the level of utility cooperation in this proceeding.

IT IS RULED that:

1. The scope of this proceeding is set forth in the combined Order Instituting Rulemaking 01-09-001 and Order Instituting Investigation 01-09-002, as refined and clarified in the body of this ruling. The assigned Commissioner may issue additional rulings to amend and clarify the scope of this proceeding.
2. The parties' proposals for revising the scope of this proceeding are not adopted except to the extent set forth in the body of this ruling.
3. All parties bear the same burden to demonstrate that their recommendations are reasonable.
4. There is a need for evidentiary hearings in Phases 1 and 2. The need for evidentiary hearings in Phase 3 will be determined after the parties have had an opportunity to submit motions to request evidentiary hearings in Phase 3.
5. Parties shall follow to the instructions regarding evidentiary hearings contained in the body of this ruling and Appendix B of this ruling.

¹³ Although parties have not raised similar concerns regarding Verizon, parties may also raise issues regarding Verizon's cooperation with staff on matters related to the Verizon audit in Phase 1 and on matters related to service quality in Phase 2.

6. Administrative Law Judge (ALJ) Kenney is the principal hearing officer for this proceeding.

7. The schedule for this proceeding is set forth in the Appendix A of this ruling. The assigned Commissioner and the assigned ALJ may revise the schedule for this proceeding.

8. This is a ratesetting proceeding.

9. The rules, procedures, and reporting requirements regarding *ex parte* communications set forth in Pub. Util. Code § 1701.3(c), Rule 7(c), and Rule 7.1 are applicable to this proceeding.

10. Communications with the assigned ALJ shall be conducted through paper mail or electronic mail (tim@cpuc.ca.gov) and not by telephone.

11. Prior to submitting a request regarding any matter to the assigned ALJ, the requesting party shall first communicate with all other parties and obtain their position on the request. The written or electronic communication to the ALJ shall contain the requesting party's representation regarding the position of the other parties on the request and shall be sent to the parties on the service list.

12. Parties shall provide an electronic copy of all their pleadings to the assigned ALJ via e-mail (tim@cpuc.ca.gov) in Microsoft Word format.

13. Any party that provides an e-mail address in its notice of participation shall serve and receive all pleadings by e-mail in Microsoft Word format. There is no need to serve hard copies of pleadings on parties that have provided an e-mail address.

14. Parties in the Appearance and State Service categories of the service list that have not provided an e-mail address must be served with a hard copy. All documents filed at the Commission must be tendered in paper form as described in Rule 2 et seq.

15. Pacific Bell Telephone Company and Verizon California Incorporated shall cooperate with Commission staff.

Dated December 27, 2001, at San Francisco, California.

/s/ LORETTA M. LYNCH

Loretta M. Lynch
Assigned Commissioner

Appendix A
Schedule for the Proceeding

Phase 1 Schedule	
Event	Date
Written Testimony.	Concurrent Opening Testimony: January 14, 2002 (Includes issues matrix.) Concurrent Reply: January 28, 2002
Motions to Strike.	Motions to Strike: January 31, 2002 Replies to Motions: February 5, 2002
Pre-Hearing Conference.	February 5, 2002, at 10 a.m.
Evidentiary Hearings.	February 13, 14, 15, 19, 20, 21, and 22, 2002.
Opening Briefs.	March 8, 2002
Reply Briefs.	March 22, 2002
Draft Decision.	May 2002

Phase 2 Schedule	
Event	Date
Pacific and Verizon File Service Quality Compliance Reports.	January 15, 2002
TD Files Pacific Audit Report.	January 31, 2002
Pacific Files Response to TD's Audit Report.	March 29, 2002
Parties Submit Surveys on Service Quality.	April 15, 2002
Written Testimony.	Opening Testimony: May 1, 2002 Reply Testimony: June 7, 2002
Motions to Strike.	Motions to Strike: June 14, 2002 Replies to Motions: June 28, 2002
Evidentiary Hearings.	July 8 – July 26, 2002
Briefs re: Phase 2 Issues.	Opening Briefs: August 16, 2002 Reply Briefs: August 30, 2002
Draft Decision re: Phase 2.	October 2002

Phase 3 Schedule	
Event	Date
Comments re: Phase 3 Issues.	Opening Comments: September 20, 2002 Reply Comments: October 4, 2002
Motions for Evidentiary Hearings re: Phase 3 Issues.	October 11, 2002
Replies to Motions.	October 18, 2002
Ruling re: Phase 3 Scope, Schedule and Need for Hearing.	November, 2002
Written Testimony & Evidentiary Hearings (if necessary)*	Opening Testimony: November 18, 2002 Reply Testimony: December 9, 2002 Evidentiary Hearings: Dec. 16 – 24, 2002
Briefs re: Phase 3 Hearing Issues.	January 2003
Requests for Final Oral Arguments before the Commission.	January 2003
Final Oral Arguments. Proceeding Submitted.	February 2003
Draft Final Decision.	Spring 2003
Comments on Draft Final Decision	Spring 2003
Final Decision	Spring 2003

* Dates for motions to strike will be established if and when it is determined that there is a need for evidentiary hearings regarding Phase 3 issues.

Appendix B

EXHIBITS

Submission of Exhibits

Prepared written testimony shall not be filed at the Commission's Docket Office, but served in accordance with the requirements set forth in the Order and this ruling.

Marking Exhibits

Exhibits shall be pre-marked for identification on the first page, bottom right-hand corner. The exhibits shall be pre-marked with the offering party's abbreviation (e.g., ORA, Pacific, TURN, Verizon, etc.) and shall be numbered sequentially within an assigned number block. The parties shall meet, confer, and agree upon assigned number blocks (e.g., ORA 1-99, Pacific 100-199, TURN 200-299, Verizon 300-399, etc.). Parties may wish to consider number blocks that are tied to each Phase. For example, ORA's number blocks might be as follows: Phase 1: 1.1 through 1.99; Phase 2: 2.1 through 2.99; and Phase 3: 3.1 through 3.99. Similarly, Pacific's number blocks might be as follows: Phase 1: 1.100 through 1.199; Phase 2: 2.100 through 2.199, and Phase 3: 3.100 through 3.199.

The upper right-hand corner of the first page of the exhibit cover sheet should have a blank space two inches high by four inches wide for the ALJ's exhibit stamp. This directive applies to cross-examination exhibits as well. Exhibits that do not have such a blank space must have a cover page.

The pages in all exhibits must be numbered.

Distribution of Exhibits at the Evidentiary Hearing

At the evidentiary hearing, each party sponsoring an exhibit shall provide two copies to the ALJ and one to the court reporter, and have at least five copies available for distribution in the hearing room.

Cross-examination Exhibits

As a general rule, if a party intends to introduce an exhibit during cross-examination, the party should provide a copy of the exhibit to the witness and

the witness' counsel before the witness takes the stand on the day the exhibit is to be introduced. Generally, a party is not required to give the witness an advance copy of the document if it is to be used for impeachment or to obtain the witness' spontaneous reaction. An exception might exist if parties have otherwise agreed to prior disclosure, such as in the case of confidential documents.

Corrections to Exhibits

Generally, exhibit corrections should be made in advance and not orally from the witness stand. Corrections should be made in a timely manner by providing new exhibit pages on which corrections appear. The original text to be deleted should be lined out, and the added text should be shown in bold, underlined font. Each corrected page should be marked with the word "revised" and the revision date.

Exhibit corrections will receive the same number as the original exhibit plus a letter to identify the correction. For example, Exhibit 1.5-3-16-B could indicate the second correction made to page 16 in Chapter 3 of Exhibit 5 in Phase 1.

Deviations and Exemptions

The assigned Commissioner and the assigned Administrative Law Judge may authorize deviations and exemptions from the requirements set forth herein.

(End of Appendix B)

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner's Ruling Determining the Category, Scope, Schedule, Need for Hearing, and the Principal Hearing Officer for the Proceeding on all parties of record in this proceeding or their attorneys of record.

Dated December 27, 2001, at San Francisco, California.

/s/ JEANNIE CHANG

Jeannie Chang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.